



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Electronic Assistance Corporation--  
Reconsideration

**File:** B-248886.2

**Date:** June 19, 1992

Wayne Pope for the protester.

David Hasfurther, Esq., Andrew T. Pogany, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

### DIGEST

Request for reconsideration of decision dismissing protest against the rejection of the protester's offer as untimely is denied since the protest was filed with the General Accounting Office (GAO) more than 10 days after protester learned of the agency's denial of its agency-level protest and since the protester's continued pursuit of the protest with the agency after the denial does not toll GAO's timeliness requirements.

### DECISION

Electronic Assistance Corporation (EAC) requests reconsideration of our dismissal as untimely of its protest against the rejection of its offer submitted under solicitation No. SSC-92-A-15065, issued by the Department of Energy.

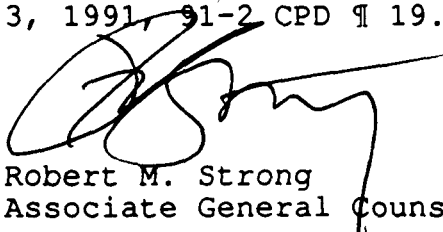
We deny the request for reconsideration.

EAC initially protested the rejection of its offer to the agency. It received the agency's denial of that protest on April 1, 1992. After the denial of its agency-level protest, EAC continued to attempt to resolve the matter with the agency's procurement personnel, until it states that it realized on May 14 that these personnel "were no longer willing to work to resolve the case/questions." EAC believes that, since it had a chance to resolve the matter with the agency up until May 14, we should use May 14, rather than April 1, in applying our timeliness requirements.

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Where, as here, a protest is first filed with the contracting agency, any subsequent protest to our Office must be filed within 10 working days after the protester has actual or constructive knowledge of initial adverse agency action. 4 C.F.R. § 21.2(a)(3) (1992); Bauer Compressors, Inc., B-244580, July 2, 1991, 91-2 CPD ¶ 16. In this case, the agency's denial of the protest constituted the initial adverse agency action. See 4 C.F.R. § 21.0(f). The 10-day time period during which a protest must be filed with our Office thus began to run on April 1 when EAC learned of the denial. The fact that EAC decided after the denial of its agency-level protest to continue discussing the matter with agency personnel before filing its protest with our Office did not toll our timeliness requirements. Once informed of the initial adverse agency action, a protester may not delay filing a subsequent protest with our Office while continuing to pursue the matter with the agency. Bauer Compressors, Inc., supra.

Accordingly, because EAC has neither established that our decision was based on any error of fact or law nor presented new information warranting reversal or modification of our decision, the request for reconsideration is denied. 4 C.F.R. § 21.12; Allied-Signal, Inc.--Recon., B-243555.2, July 3, 1991, 91-2 CPD ¶ 19.



Robert M. Strong  
Associate General Counsel